IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

WEDNESDAY, THE 23RD AUGUST 2006 / 1ST BHADRA 1928

WP(C).No. 22127 of 2006(H)

PETITIONER:

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1. LITTLE FLOWER K.G.,
   P.D.TEACHER, GOVERNMENT HIGHER SECONDARY SCHOOL,
   VENGARA, MALAPPURAM DISTRICT.

2. RADHIKA RAGHAVAN,
   R.D.TEACHER, GOVERNMENT HIGHER SECONDARY SCHOOL,
   VENGARA, MALAPPURAM DISTRICT.

BY ADV. SRI.M.SASINDRAN
SRI.TOJAN J. VATHIKULAM

RESPONDENTS:

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1. THE DEPUTY DIRECTOR OF EDUCATION,
   MALAPPURAM.

2. STATE OF KERALA, REPRESENTED BY
   SECRETARY TO GOVERNMENT,
   DEPARTMENT OF GENERAL EDUCATION,
   SECRETARIAT, THIRUVANANTHAPURAM.

3. REENA PHILIP,
   H.S.A. (MALAYALAM), G.H.S.S.,
   TRIKKAVU, MALAPPURAM.

4. BIJU G.S.,
   H.S.A. (MALAYALAM),
   GOVERNMENT HIGHER SECONDARY SCHOOL, VELIYANCODE.

BY SR.GOVT.PLEADER SMT.D.P.RENU.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23/08/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

A.K. Basheer, J.

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W.P(C) No. 22127 of 2006-H

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Dated this the 23rd day of August, 2006.

J U D G M E N T

Petitioners are P.D. teachers now working in Government Higher Secondary School, Vengara in Malappuram district. Their primary grievance is that the quota earmarked for PD teachers for promotion to the post of HSA has not been given to the said category of teachers and thereby they have been denied promotion as HSA (Malayalam). According to the petitioners, they are fully qualified to hold the post of HSA (Malayalam) and going by seniority and number of vacancies earmarked for the category to which they belong and also the vacancy position now available, they ought to have been promoted. Several of their juniors like respondents 3 and 4 have been given promotion ignoring their claim.

2. Petitioners challenge Ext.P7 order issued by respondent No.1 by which 29 teachers were promoted as HSA, pursuant to the direction issued by this Court. Similarly petitioners have also challenged Ext.P8 order issued by respondent No.1 rejecting the claim of the petitioners for promotion. They further pray for a declaration that they are entitled to get promotion as HSA (Malayalam) with effect from the date of Ext.P7. There is a further prayer for issuance of a writ of mandamus or such other appropriate writ, order or direction to respondent No.1 to maintain 1: 1 ratio among the direct recruits and promotees in the cadre of HSA (Malayalam) and to maintain the ratio while making further appointments.

3. Having heard learned counsel for the petitioners and having perused the materials placed on record, I do not find any reason to interfere with Exts.P7 and P8 orders.

4. The primary grievance of the petitioners appears to be that several of their juniors have been promoted as HSA (Malayalam) while their claim had been overlooked. Petitioners had preferred W.P.No.24323/2005 before this Court raising the above contention. By judgment dated August 17, 2005 this Court had directed respondent No.1 to consider the grievance of the petitioners as highlighted in the representation submitted by them. It was thereafter that Ext.P8 order had been passed by respondent No.1.

5. In Ext.P8 order it has been indicated that a list of eligible teachers to be promoted as HSA (Malayalam) was prepared and published for the academic year 2004-05. The list was circulated among teachers through the respective Head of the Institutions. Publicity to the list was also given through newspapers like Desabhimani, Malayala Manorama, Chandrika, Madhyamam and Mathrubhumi. Complaints and objections received from teachers against the list were considered. Petitioners had not sought inclusion of their names in the list; nor had they submitted their bio-data. More importantly, petitioners had not raised any objection against their non inclusion in the list.

6. Admittedly promotions to the post of HSA (Malayalam) were made from the above list. In WP.No. 18676/2004 this Court had issued a direction to respondent No.1 to fill up all the 43 vacancies of HSA (Malayalam) in the promotion quota. In the meanwhile 14 out of the 43 vacancies had already been filled up by respondent No.1. The remaining 29 promotional vacancies were thereafter filled up in

terms of the direction issued by this Court in W.P.No.18676/03. Ext.P7 order was issued by respondent No.1 in terms of the above direction. It was made clear that those "promotions were purely provisional under Rule 31A of the KS & SSR on the basis of report by Asst. Educational Officer/ Headmaster concerned with regard to the qualification and service seniority of the promotees". It was also made clear that if any of the promotees was found ineligible for promotion, such promotion would be cancelled without further notice. Further the Government order directing temporary promotion had already been cancelled. It was in the above circumstances that respondent No.1 had rejected the claim of the petitioners.

Having regard to the entire facts and circumstances I do not find any reason to entertain the writ petition at this stage. Writ Petition is dismissed. However I make it clear that the dismissal of this writ petition will not stand in the way of the petitioners in pursuing their statutory right for promotion as provided under law before the appropriate authority.

A.K. Basheer
Judge.

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